IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

Crl.MC.No. 1620 of 2007()

C.R.NO.11/07 OF VADAKKANCHERRY EXCISE RANGE.

PETITIONER: ACCUSED

BABURAJ, S/O.NANDANAN, ASARIPARAMBIL HOUSE, POOMALA, THEKKUMKARA VILLAGE, TRICHUR DISTRICT.

BY ADV. SRI.P.K.ANIL

RESPONDENTS: COMPLAINANT & STATE

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1. THE INSPECTOR OF EXCISE, EXCISE RANGE, VADAKKANCHERRY.

2. STATE REP; BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 1620 OF 2007

Dated this the 6th day of June, 2007

ORDER

The petitioner is an accused facing allegations under the provisions of the Kerala Abkari Act. The crux of the allegations is that the petitioner was allegedly found to be in possession of the contraband articles which he abandoned on seeing the Excise party. He allegedly took to his heels. He is allegedly identified and his name is shown specifically in the seizure mahazar on the basis of which proceedings commenced.

2. The petitioner has come to this Court with a prayer that the powers under Sec.482 of the Cr.P.C. may be invoked to quash the proceedings against the petitioner at this early stage. What are the reasons? The learned counsel for the petitioner submits that the allegations against the petitioner are false. Truth or falsity of the allegations cannot, at any rate, be gone into by this Court ordinarily in a proceedings under Sec.482 of the Cr.P.C. Investigation will have to be conducted and truth ascertained. This Court cannot assume the investigational responsibilities at this stage under Sec.482 of the Cr.P.C. It is secondly contended that the details of the

petitioner are not stated in the seizure mahazar. His name is shown. Clothes worn by him are described. That the witnesses identified the one who ran away is also mentioned. In these circumstances, in the wake of the nature of allegations raised in the seizure mahazar, I am at a loss to understand the present prayer to invoke the powers under Sec.482 of the Cr.P.C. to quash the proceedings.

3. The learned counsel for the petitioner submits that there may be an observation that the Investigating Officer must conduct a Test Identification parade. The learned counsel for the petitioner submits that this Court is the custodian of the freedom and liberty of the individual and in these circumstances, appropriate observations ought to be made. I do not think it necessary or appropriate to make any observations. A proper investigation has to be conducted. The petitioner's right to seek any other appropriate relief or to seek anticipatory bail shall remain unfettered by the dismissal of this Crl.M.C.

4. This Crl.M.C. is, accordingly, dismissed.

(R. BASANT, JUDGE)

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